

05-02-03

1625#

Express Mail Label  
No. EL 890684855 US

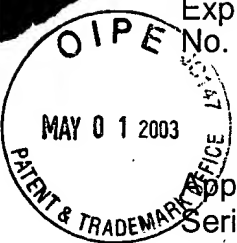
FSUM 10551.1  
PATENT

TECH CENTER 1600/2900

MAY 06 2003

RECEIVED

7  
ve3  
6-5-8



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Robert A. Holton et al.

Art Unit 1625

Serial No. 09/978,436

Filed October 16, 2001

Confirmation No. 5339

For RADIOSENSITIZING TAXANES AND THEIR PHARMACEUTICAL  
PREPARATIONS

Examiner Ba K. Trinh

May 1, 2003

**REQUEST FOR RECONSIDERATION**

TO THE ASSISTANT COMMISSIONER FOR PATENTS,  
SIR:

This letter is in response to the Office action dated November 1, 2002, the time for response to which is extended to May 1, 2003 under 37 C.F.R. §1.136(a).

Reconsideration is requested of the rejection of claims 4-17 as anticipated by structure II in figure 1 of Tao et al. (U.S. Patent No. 5,780,653). Attached is a Section 131 affidavit and experimental evidence showing that Holton et al. completed and reduced to practice the subject matter of this application in the United States before June 7, 1995, the filing date of U.S. Patent No. 5,780,653. Accordingly, U.S. Patent No. 5,780,653 is removed as a reference for this application and a rejection under § 102(e) of claims 4-17 cannot be properly maintained.

Regardless of dates of invention, claim 9 is patentable over Tao et al. Nothing in Tao et al. discloses or teaches the metal complex required by claim 9. Thus, claim 9 is not anticipated by Tao et al.

Applicant submits that the present application is in condition for allowance and requests early allowance of the pending claims.

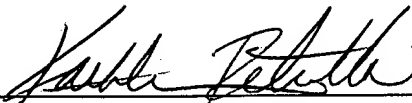
Applicants request a three (3) month extension of time to and including May 1, 2003 for filing a response to the above-mentioned Office action. A check for \$930 in payment of the applicable extension fee is enclosed.

Express Mail Label  
No. EL 890684855 US

FSUM 10551.1  
PATENT

It is believed no fees are required for the submission of the attached Declaration, however, the Commissioner is requested to charge any fee deficiency or overpayment in connection with this amendment to Deposit Account 19-1345.

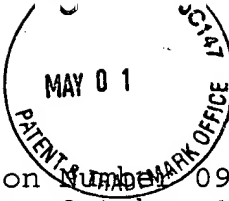
Respectfully submitted,



---

Kathleen M. Petrillo, Reg. No. 35,076  
SENNIGER, POWERS, LEAVITT & ROEDEL  
One Metropolitan Square, 16th Floor  
St. Louis, Missouri 63102  
(314) 231-5400

KMP/JSH  
\*Attachment



FEE TRANSMITTAL

Application Number 09/978,436  
Filing Date October 16, 2001  
Confirmation No. 5339  
Inventor(s) Robert A. Holton et al.  
Group Art Unit 1625  
Examiner Name Ba K. Trinh  
Attorney Docket Number FSUM 10551.1

RECEIVED  
MAY 06 2003  
TECH CENTER 1600/2900

**METHOD OF PAYMENT**

1. ☐ The Commissioner is hereby authorized to charge the indicated fees to Deposit Account No. 19-1345.  
☐ The Commissioner is hereby authorized to charge any additional fees required under 37 CFR 1.16 and 1.17 to Deposit Account No. 19-1345.  
☐ Applicant claims small entity status.
2. ☒ Check Enclosed. The Commissioner is hereby authorized to charge any under payment or credit any over payment to Deposit Account No. 19-1345.

**FEE CALCULATION**

1. ☐ BASIC FILING FEE Subtotal (1) \$ \_\_\_\_\_  
(Type: \_\_\_\_\_)
2. ☐ EXTRA CLAIM FEES Subtotal (2) \$ \_\_\_\_\_  
Total Claims \_\_\_\_\_  
Independent Claims \_\_\_\_\_  
Multiple Dependent Claims \_\_\_\_\_
3. ☒ ADDITIONAL FEES Subtotal (3) \$ 930.00  
☐ Surcharge - late filing fee or oath  
☐ Surcharge - late provisional filing fee or cover sheet  
☒ Extension for reply within 3 months  
☐ Notice of Appeal  
☐ Filing a Brief in Support of an appeal  
☐ Request for ex parte Reexamination  
☐ Petitions to the Commissioner  
☐ Submission of Information Disclosure Statement  
☐ Recording each patent assignment per property  
☐ Request for Continued Examination  
☐ Other: \_\_\_\_\_

TOTAL AMOUNT OF PAYMENT \$ 930.00

  
Kathleen M. Petrillo, Reg. No. 35,076

5-1-03  
Date

KMP/JSH/dfw

Express Mail Label No. EL 890684855 US